

January 14, 1999

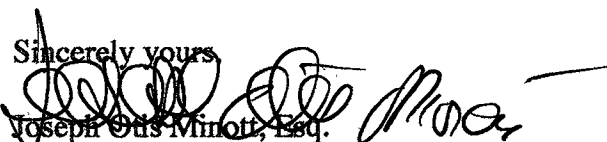
David L. Arnold, Chief  
Ozone and Mobile Sources Branch  
Mailcode 3AP21  
U. S. Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, Pa. 19103

Dear Mr. Arnold:

Please find enclosed the Council's comments on EPA's rulemaking on Pennsylvania's Attainment Demonstration for the Philadelphia area.

If you have any questions about the comments, please do not hesitate to contact me.

Sincerely yours

  
Joseph Otis Minott, Esq.

Executive Director

RECEIVED

JAN 19 2000

Air Protection Division (3AP21)



135 South 19th Street  
Suite 300  
Philadelphia, PA 19103  
215-567-4004  
Fax 215-567-5791  
E-Mail [members@cleanair.org](mailto:members@cleanair.org)

**THESE COMMENTS ARE THE CLEAN AIR COUNCIL'S OFFICIAL  
RESPONSE TO THE UNITED STATES ENVIRONMENTAL PROTECTION  
AGENCY'S APPROVAL OF PENNSYLVANIA'S ATTAINMENT  
DEMONSTRATION FOR THE PHILADELPHIA-WILMINGTON-TRENTON  
NONATTAINMENT AREA AS PUBLISHED IN 64 FR 70428 ON DECEMBER 16,  
1999**

The Clean Air Council was founded in 1967 as a citizen-based, non-profit organization to address the growing environmental problems in the Greater Philadelphia Area, especially their impact on air quality. The Council works through a combination of public education, community advocacy, and oversight of government enforcement of environmental laws to ensure that all residents of Pennsylvania live in a healthy environment. Responses to these comments should be sent to Joseph Otis Minott, Esq., Clean Air Council, 135 S. 19th Street, Suite 300, Philadelphia, Pa. 19103. [Joe\\_minott@cleanair.org](mailto:Joe_minott@cleanair.org).

Despite steady progress over the last twenty-eight years, the air quality in the Philadelphia Metropolitan Statistical Area remains a major public health threat to the people of the region. It is imperative, therefore, that the United States Environmental Protection Agency takes seriously its duty to carefully review the adequacy of Pennsylvania's attainment demonstration submission.

**It is therefore perplexing to see the EPA propose to approve Pennsylvania's attainment demonstration submission, when EPA acknowledges from outset that the submitted plan does not show attainment.**

The fundamental problem with EPA's proposed action is that EPA is approving the attainment demonstration on the hope that at some future time, Pennsylvania will send a letter committing to reduce emissions further and at some even later time, adopt the regulatory programs to actually achieve the emission reductions. EPA has concluded that even if Pennsylvania was fully implementing all its SIP committed VOC and NOx reduction programs ( and even taking credit for federal program such as TIER II that are still going through regulatory and legal processes), Pennsylvania must still reduce VOC emissions by 62 tons per day and NOx emissions by 3.4 tons per day to demonstrate attainment.

The Council acknowledges that it is not an expert on air quality modeling. Nevertheless there is something disconcerting in allowing the state to rely on weight-of-evidence analysis to discount the impact of a particularly bad air quality episode.

The major problem with Pennsylvania's attainment demonstration is that it takes credit for programs that have not been fully implemented. The Council has concerns about

Clean Air Council Comments



Pennsylvania receiving credit for the following programs: Enhanced I/M program; NOx RACT; VOC RACT; Stage II vapor recovery; federal measures; 15% VOC reduction Plan and 9% rate of progress plan; and its mobile emissions budget.

Enhanced I/M: Pennsylvania is not fully implementing its SIP approved enhanced automobile emissions inspection and maintenance (I/M) program. It therefore makes no sense for EPA to approve an attainment demonstration that includes emissions from a program that the Commonwealth is not fully implementing.

NOx RACT/VOC RACT: Applying Reasonable Available Control Technology (RACT) to sources throughout the Commonwealth is another crucial pollution control strategy. The Council is extremely concerned, however, that the Commonwealth is greatly behind in its RACT submittals to EPA, as is EPA in approving them. This deficiency is particularly apparent with respect to utilities which are some of the worst polluters of oxides of nitrogen (NOx).

Stage II Vapor Recovery: The Council is concerned about the amount of credit that EPA is willing to grant Pennsylvania for Stage II. The Council understands that Mobile 5B assumes for stage II a 95% Rule Penetration and 80% Rule Effectiveness. This results in a 76% rate of efficiency. The Council firmly believes that the aging Stage II equipment in the Philadelphia area is performing far below expectations. The Council believes that EPA needs to determine the actual present efficiency of Stage II and allow only that level to be included in the Attainment.

Federal Measures: The Council is aware of EPA's slowness in adopting national measures dealing with certain area sources. The Council is extremely concerned that states not be given credit for measures that may not be fully implemented. The Council is concerned that states are being given full credit for federal coating, refinishing and consumer product rules that have delayed or weakened.

The Council is also concerned that EPA is giving credit to states for TIER II reductions and reductions to be achieved under the 110 SIP call. This makes no sense. The Tier II regulations are still going through regulatory and legal processes. The 110 SIP call has been blocked by a federal court. While the Council strongly supports both programs, it fails to understand how credit can be given for programs whose future is so uncertain.

9% Rate of Progress Plan: The Council's concerns about the 9% ROP were submitted to EPA on September 24, 1999. The Council incorporates those comments by reference into these comments. The Council is attaching a copy of its ROP comments.

Mobile Source Emissions Budget: When Pennsylvania proposed its attainment demonstration it failed to give a clear indication of how the conformity requirements of the Clean Air Act were being met. Conformity between air pollution and transportation plans is too often seen by state and Federal government agencies as a meaningless exercise; to be ignored if possible. That is not an attitude shared by the Council.

Conformity is an important tool to ensure that transportation programs or policies are fully developed with Clean Air Act obligations in mind.

Despite proposing to approve Pennsylvania's attainment demonstration, EPA acknowledges that Pennsylvania's vehicle emissions budget does not provide sufficient emission reductions to demonstrate attainment.

#### CONCLUSION:

The Council acknowledges the great progress Pennsylvania has made in improving air quality in the Greater Philadelphia area. Nevertheless, the Council urges EPA to disapprove Pennsylvania's attainment demonstration at this time. Pennsylvania should choose additional control measures and submit them for SIP approval; fully implement in present SIP obligations; and correct the deficiencies in its mobile source emission budget, before EPA conditionally approves its Pennsylvania's attainment demonstration. To furthermore, EPA needs to complete its RACT reviews, and review its policy of granting emission reduction credits for federal problems that have not been fully implemented in a timely manner.

September 24, 1999

David L. Arnold, Chief  
Ozone and Mobile Sources Branch  
Mailcode 3AP21  
U.S. Environmental Protection Agency  
Region III  
1650 Arch St.  
Philadelphia, PA 19103

Re: Comments of Clean Air Council on EPA's Proposed Limited Approval of  
Pennsylvania's Post-1996 Rate of Progress State Implementation Plan; 64 Fed Reg.  
46325.

Dear Mr. Arnold:

The United States Environmental Protection Agency's limited approval of Pennsylvania's Post-1996 Rate of Progress State Implementation Plan (Post-96 ROP SIP) is riddled with deficiencies. It reflects EPA's pass-through mentality in which inadequate and legally unapprovable state submissions are rubber stamped for approval without being properly scrutinized. Pennsylvania residents and those of upwind states are then left to deal with the consequences of living in a region that continues to suffer from severe air pollution. Furthermore, EPA's disregard of a SIP approval process provided for under the Clean Air Act (CAA) furthers Pennsylvania's attempts to circumvent its obligations to submit adequate SIPs.

The Council's first concern with EPA's proposed approval is the "limited" classification of the approval itself. A "limited approval" is not provided for in the Clean Air Act as a regulatory response to a SIP submittal. EPA appears to have created this new approval "classification" in order to grant approval for those SIPs that are in fact legally not approvable. If Pennsylvania has not submitted an adequate rate of progress SIP in a timely manner, the EPA must disapprove it. The fact that the state may be sanctioned is not relevant to EPA's legal obligations under the SIP process. EPA can not simply create a new approval mechanism in order to satisfy its eagerness not to sanction a state. The problem with EPA's proposed "limited approval" process is that it renders much of the SIP submittal and approval process meaningless. Furthermore, §110(k)(3)(4) of the Clean Air Act clearly defines EPA's options with respect to approving and/or disapproving state submissions. A "limited approval", however, is not one of the options and is not mentioned anywhere in the Act.

Furthermore, EPA's decision to grant "limited final approval" to Pennsylvania's Post-96 ROP plan given Pennsylvania's failure to fully implement its inspection/maintenance

(I/M) program is unconscionable. EPA admits that the Post-96 ROP plan "assumes" the final acceleration simulation mode (ASM) cutpoints that were supposed to be implemented in December of 1998 as part of Pennsylvania's I/M program. EPA is well aware that Pennsylvania has decided not to implement those new cutpoints. EPA must take cognizance of the reality of the Pennsylvania I/M program and can not simply ignore the cutpoint issue. It is not adequate for EPA to approve the ROP plan on the basis of Pennsylvania's paper submission and refuse to recognize what is happening in the real world.

The Council also objects to EPA's proposal to grant "limited approval" to Pennsylvania's Post-96 ROP plan given the fact that most Reasonable Available Control Technology (RACT) proposals included in the ROP plan have not yet been reviewed and approved by EPA. Pennsylvania chose to implement RACT on a case-by-case basis. Pennsylvania was fully aware that case-by-case RACT involves an extremely slow approval process. Having chosen such a slow RACT process, Pennsylvania can not now be granted presumed approval because the EPA approval process is slow. It is unfortunate that the RACTs were not submitted in a manner (timeliness, completeness, and adequacy) that allowed EPA to review and approve them quickly, but EPA can not make up for that by crediting Pennsylvania's ROP with unapproved RACTs.

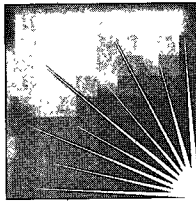
The Council is also concerned about the amount of credit that EPA is willing to grant Pennsylvania for Stage II. The Council appreciates that Mobile 5B assumes for Stage II 95% Rule Penetration and 80% Rule Effectiveness. This results in a 76% rate of efficiency. The Council firmly believes that the aging Stage II equipment in the Philadelphia area is performing far below expectations. The Council believes that EPA needs to determine the actual present efficiency of Stage II and allow only that level to be included in the ROP plan.

Finally, the Council is extremely concerned with the Post-96 ROP plan's lack of contingency measures to account for any shortfalls in the amount of emission reductions. The Council believes such contingency plans are required under the Clean Air Act. Furthermore, given the deficiencies in the emission reduction strategies discussed above, it would wise to have in place a set of contingency measures to ensure that the appropriate amount of reductions are achieved. It is especially important in light of the fact that the emission reductions called for under the Post-96 ROP plan are to be achieved by the end of this calendar year.

Responses to these comments may be directed to: Jason A. Rash, Staff Attorney, Clean Air Council, 135 S. 19<sup>th</sup> Street, Suite 300, Philadelphia, PA. 19103; or call (215) 567-4004 x221.

Respectfully Submitted,

Joseph O. Minott, Esq  
Executive Director  
Clean Air Council

**RECEIVED**

FEB 14 2000

**Air Protection Division (3AP21)**

**Philadelphia**  
135 South 19th Street  
Suite 300  
Philadelphia, PA 19103  
215-567-4004  
Fax 215-567-5791  
E-Mail [members@cleanair.org](mailto:members@cleanair.org)  
[www.cleanair.org](http://www.cleanair.org)

**Harrisburg**  
105 N. Front St.  
Suite 106  
Harrisburg, PA 17101  
717-230-8807  
Fax 717-230-8808

**Wilmington**  
Community Service Building  
100 W. 10th St.  
Suite 704  
Wilmington, DE 19801  
302-691-0112 ext. 226

**THESE COMMENTS ARE THE CLEAN AIR COUNCIL'S  
SUPPLEMENTAL RESPONSE TO THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY'S APPROVAL OF  
PENNSYLVANIA'S ATTAINMENT DEMONSTRATION FOR THE  
PHILADELPHIA-WILMINGTON-TRENTON NONATTAINMENT  
AREA AS PUBLISHED IN 64 FR 70428 ON DECEMBER 16,  
1999**

The Clean Air Council was founded in 1967 as a citizen-based, non-profit organization to address the growing environmental problems in the Greater Philadelphia Area, especially their impact on air quality. The Council works through a combination of public education, community advocacy, and oversight of government enforcement of environmental laws to ensure that all residents of Pennsylvania live in a healthy environment. Responses to these comments should be sent to Joseph Otis Minott, Esq., Clean Air Council, 135 S. 19th Street, Suite 300, Philadelphia, Pa. 19103. [Joe\\_minott@cleanair.org](mailto:Joe_minott@cleanair.org).

Despite steady progress over the last twenty-eight years, the air quality in the Philadelphia Metropolitan Statistical Area remains a major public health threat to the people of the region. Each summer sees a number of exceedances of the federal health standard for ozone. Elevated ozone levels translates into direct health costs to the citizens of the Philadelphia area. It is imperative, therefore, that the United States Environmental Protection Agency takes seriously its duty to carefully review the adequacy of Pennsylvania's attainment demonstration submission. It is therefore perplexing to see the EPA propose to approve Pennsylvania's attainment demonstration submission, when EPA acknowledges from outset that the submitted plan does not show attainment.

**I) The Proposed Plan Does Not Show Attainment and Thus Cannot Be Approved by EPA.**

The requirement that Pennsylvania submit an attainment demonstration for the Philadelphia area which is in severe non-attainment is mandated by the Clean Air Act. 42 U.S.C. 7511(a)(1), 7511a. There are but two requirements. The first is that the plan show attainment by the applicable attainment date AND that the attainment demonstration be based on photochemical grid modeling. The proposed plan fails on both accounts.

The fundamental problem with EPA's proposed action is that the EPA is approving the attainment demonstration on the hope that at some future time, Pennsylvania will send a letter committing to reduce emissions further and at some even later time, adopt the regulatory programs to actually achieve the needed emission reductions. EPA has concluded that even if Pennsylvania was fully implementing all its SIP committed VOC and NOx reduction programs ( and even taking credit for federal program such as TIER II that are still going through regulatory and legal processes), Pennsylvania must still reduce VOC emissions by 62 tons per day and NOx emissions by 3.4 tons per day to demonstrate attainment.

Clearly the submitted plan can not be seen to demonstrate attainment and thus can not be approved. It is clear that the state needs to adopt additional measures that will clearly reduce ozone To levels permitted by the Clean Air Act.

II) The Proposed Plan Does Use the Modeling method required under the Clean Air Act and Thus Cannot Be Approved by EPA.

As noted above, the required modeling for an attainment demonstration is clearly laid out by Section 182 (c)(2)(A) of the Clean Air Act.

Pennsylvania already did not follow the proper modeling protocol when they chose to model only two episodes. 40 CFR section 51.112 (a)(1) identifies only the Urban Airshed Model as the appropriate model. Thus the attainment demonstration must use that model unless the EPA Administrator formally establishes than alternative method is as effective.

Pennsylvania has clearly demonstrated that the photochemical grid modeling shows ozone peaks above the NAAQS. The Council acknowledges that it is not an expert on air quality modeling.



Nevertheless there is something disconcerting in allowing the state to rely on weight-of-evidence analysis to discount the impact of a particularly bad air quality episode. On its face a "weight of the evidence" approach does not appear to meet the requirements of the Clean Air Act that the state demonstrate attainment.

Indeed the use of "weight of the evidence" appears calculated to act as a way of discounting a model that shows that a state has not done enough to attain the standard. To that end, it seems that using weight of the evidence to dilute a model's conclusion that an area will not achieve attainment of the standard is contrary to the requirements of the Clean Air Act.

### III) The Proposed Plan Does Not Show Attainment as Expeditiously as possible and thus Cannot Be Approved by EPA.

The Clean Air Act is intended to move the state's forward in implementing programs to attain and maintain the federal air quality health standards. The attainment dates provided for under the Clean Air Act are the latest date by which the standards are to be met. If possible states need to meet the standards sooner. 42 U.S.C. 7511 (a) (1). There is nothing in Pennsylvania's SIP proposal that suggests that it has implemented the mix of controls needed for the Philadelphia area to attain the ozone health standard as expeditiously as possible.

### IV) The Proposed Plan Takes Credit for Programs That Have Not Been Fully Implemented and Thus Cannot Be Approved by EPA.

The Council has concerns about Pennsylvania receiving credit for the following programs: Enhanced I/M program; NOxRACT; VOCRACT; Stage II vapor recovery; federal measures; 15% VOC reduction Plan and 9% rate of progress plan; and its mobile emissions budget.

A) Enhanced I/M: Under 42 U.S.C. 7511a(c)(3), 7511c(b)(1)(A), 75 a(c)(3) Pennsylvania is required to implement an enhanced vehicles inspection and maintenance (I/M) program in the Philadelphia area. In its approved Pennsylvania committed to various emission standards, or cutpoints, for the I/M test implemented in the five-county Philadelphia area. Although

Pennsylvania's enhanced I/M program started in October 1997, Pennsylvania PennDOT has since failed to implement the tighter cutpoints that were required by the SIP as of December 1, 1998. To date Pennsylvania still has not implemented the newer cutpoints. It makes no sense for EPA to approve an attainment demonstration that assumes emission reductions from a program that Pennsylvania is not fully implementing.

NOxRACT/VOC RACT: Applying Reasonable Available Control Technology (RACT) to sources throughout the Commonwealth is another crucial pollution control strategy required under the Clean Air Act. The Council is extremely concerned, however, that the Commonwealth is greatly behind in its RACT submittals to EPA, as is EPA in approving them. This deficiency is particularly apparent with respect to utilities which are some of the worst polluters of oxides of nitrogen (NOx).

Pennsylvania, for instance, is quick to make the point that transported air pollution is responsible for the trouble that Western Pennsylvania area is having in attaining the ozone health standard. The Council supports Pennsylvania's efforts to force mid-western utilities to cut down their NOx emissions. The Council believes that Pennsylvania could substantially help the Philadelphia area attain the ozone standard by significantly reducing emission from older high NOx emitting Western Pennsylvania power plants.

Beyond the RACT requirements, the Clean Air Act requires non-attainment plans to provide for the implementation of all reasonably available control measures (RACM) 42 U.S.C. 7502 (c)(1). Pennsylvania has not made any showing as to how it is meeting its RACM requirements. EPA can not approve an attainment demonstration without RACMs.

Stage II Vapor Recovery: The Council is concerned about the amount of credit that EPA is willing to grant Pennsylvania for Stage II. The Council understands that Mobile 5B assumes for stage II a 95% Rule Penetration and 80% Rule Effectiveness. This results in a 76% rate of efficiency. The Council firmly believes that the aging Stage II equipment in the Philadelphia area is performing far below expectations. The Council believes that EPA needs to determine the actual present efficiency of Stage II and allow only that level to be included in the Attainment.

Federal Measures: The Council is aware of EPA's slowness in adopting national measures dealing with certain area sources. The Council is extremely concerned that states not be given credit for measures that may not be fully implemented. The Council is concerned that states are being given full credit for federal coating, refinishing and consumer product rules that have been delayed and weakened. The Council is also concerned that EPA is giving credit to states for TIER II reductions and reductions to be achieved under the 110 SIP call. This makes no sense. The Tier II regulations are still going through regulatory and legal processes. The 110 SIP call has been blocked by a federal court. While the Council strongly supports both programs, it fails to understand how credit can be given for programs whose future is so uncertain.

The emission reductions claimed from these federal rules must be recalculated to reflect actual emission reductions that can be expected from the final rule adopted by EPA discounted for any delays in implementation.

9% Rate of Progress Plan: The Council's concerns about the 9% ROP were submitted to EPA on September 24, 1999. The Council incorporates those comments by reference into these comments. The Council is attaching a copy of its ROP comments.

Mobile Source Emissions Budget: When Pennsylvania proposed its attainment demonstration it failed to give a clear indication of how the conformity requirements of the Clean Air Act were being met. Conformity between air pollution and transportation plans is too often seen by state and Federal government agencies as a meaningless exercise; to be ignored if possible. That is not an attitude shared by the Council. Conformity is an important tool to ensure that transportation programs or policies are fully developed with Clean Air Act obligations in mind.

Despite proposing to approve Pennsylvania's attainment demonstration, EPA acknowledges that Pennsylvania's vehicle emissions budget does not provide sufficient emission reductions to demonstrate attainment.

Finally, the attainment demonstration does not contain any contingency measures to make up for any emission shortfall due to

delays in implementation or miscalculation as to actual emission reductions.

#### **V. Conclusion:**

The Council acknowledges the great progress Pennsylvania has made in improving air quality in the Greater Philadelphia area. Nevertheless, the Council urges EPA to disapprove Pennsylvania's attainment demonstration at this time. Pennsylvania should choose additional control measures and submit them for SIP approval; fully implement in present SIP obligations; and correct the deficiencies in its mobile source emission budget, before EPA conditionally approves its Pennsylvania's attainment demonstration. To furthermore, EPA needs to complete its RACT reviews, and review its policy of granting emission reduction credits for federal problems that have not been fully implemented in a timely manner.



Renewable-Based Electricity

## Choose Green-e Certified Electricity

Look for the Green-e symbol when you choose an electricity supplier.  
It's your guarantee of cleaner, greener energy for a healthy planet.

---

### When you see the Green-e logo on an electricity product it means:

- at least 50% of the electricity supply for the product comes from Renewable Electricity Resources, which could cut green house gases by at least half.

*Renewable Electricity Resources are generated from the sun, water, wind, sustainable biomass (the burning of agricultural waste or landfill gas), and geothermal (heat from the earth), as well as energy saved through conservation and efficiency.*

- any non-renewable part of the product has equal or lower emissions and no more nuclear power than the traditional mix of electricity would have if you did not switch.













*Air emissions include: sulfur dioxide (which causes acid rain), nitrogen oxide (which causes smog), carbon dioxide (which causes global warming).*

- the energy resources purchased and sold for this product are independently verified by the Center for Resource Solutions, which administers the Green-e Program.

*The Center for Resource Solutions is an independent, non-profit organization dedicated to facilitating the use of energy efficiency and renewables to sustain healthy environments and enhance overall quality of life. To learn more, visit the Green-e web site at [www.green-e.org](http://www.green-e.org) or call toll-free 1-888-63-GREEN.*

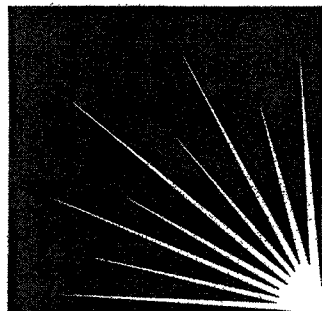
- the company offering the product agrees to abide by the Green-e Program's Code of Conduct, which requires the company to inform its customers of the sources of the electricity they purchase.

# Suppliers Offering Cleaner Electric Products In PECO Service Territory

Energy Supplier	R- (Look on PECO bill for rate class)			RH- (Look on PECO bill for rate class)			Other	Fuel Mix
	Non Green-e		Green-e*	Non Green-e		Green-e*	All prices include Generation and Transmission * All prices are cents per kilowatt hour	How electricity is generated
	Coal & Nuclear	50%	100%	Coal & Nuclear	50%	100%		
<b>Conectiv Energy</b> 1-800-727-3200	5.35			4.55			Prices valid under the Conectiv 12 month contract (a 15 month contract is slightly cheaper)	Green-e renewables: Hydroelectric, Landfill methane, Biomass
<b>Energy Cooperative Association of Penna.</b> 215-972-1537	4.79	X		4.54	X		\$5.00 Annual fee for co-op membership	Electricity is bought in bulk from Conectiv
<b>Green Mountain Energy Resources</b> 1-888-CHOOSE-0 [1-888-246-6730]	Natural Gas 5.53			Natural Gas 5.53			Green Mountain does not buy Coal or Nuclear and is committed to building "new" renewable resources.	Green-e renewables: Solar, Hydroelectric, Landfill methane, Biomass
<b>The Mack Services Group</b> 1-800-315-4692	4.98	X		4.79	X			Green-e renewables: 80% Biomass 20% Small Hydro

Suppliers listed offer Green-e certified electric products.

Prices are accurate as of January 14, 2000



**Clean Air**Council

[www.cleanair.org](http://www.cleanair.org)

\*Green-e is a system of certifying and labeling electricity that is generated using renewable sources

September 24, 1999

David L. Arnold, Chief  
Ozone and Mobile Sources Branch  
Mailcode 3AP21  
U.S. Environmental Protection Agency  
Region III  
1650 Arch St.  
Philadelphia, PA 19103

Re: Comments of Clean Air Council on EPA's Proposed Limited Approval of  
Pennsylvania's Post-1996 Rate of Progress State Implementation Plan; 64 Fed Reg.  
46325.

Dear Mr. Arnold:

The United States Environmental Protection Agency's limited approval of Pennsylvania's Post-1996 Rate of Progress State Implementation Plan (Post-96 ROP SIP) is riddled with deficiencies. It reflects EPA's pass-through mentality in which inadequate and legally unapprovable state submissions are rubber stamped for approval without being properly scrutinized. Pennsylvania residents and those of upwind states are then left to deal with the consequences of living in a region that continues to suffer from severe air pollution. Furthermore, EPA's disregard of a SIP approval process provided for under the Clean Air Act (CAA) furthers Pennsylvania's attempts to circumvent its obligations to submit adequate SIPs.

The Council's first concern with EPA's proposed approval is the "limited" classification of the approval itself. A "limited approval" is not provided for in the Clean Air Act as a regulatory response to a SIP submittal. EPA appears to have created this new approval "classification" in order to grant approval for those SIPs that are in fact legally not approvable. If Pennsylvania has not submitted an adequate rate of progress SIP in a timely manner, the EPA must disapprove it. The fact that the state may be sanctioned is not relevant to EPA's legal obligations under the SIP process. EPA can not simply create a new approval mechanism in order to satisfy its eagerness not to sanction a state. The problem with EPA's proposed "limited approval" process is that it renders much of the SIP submittal and approval process meaningless. Furthermore, §110(k)(3)(4) of the Clean Air Act clearly defines EPA's options with respect to approving and/or disapproving state submissions. A "limited approval", however, is not one of the options and is not mentioned anywhere in the Act.

Furthermore, EPA's decision to grant "limited final approval" to Pennsylvania's Post-96 ROP plan given Pennsylvania's failure to fully implement its inspection/maintenance

(I/M) program is unconscionable. EPA admits that the Post-96 ROP plan "assumes" the final acceleration simulation mode (ASM) cutpoints that were supposed to be implemented in December of 1998 as part of Pennsylvania's I/M program. EPA is well aware that Pennsylvania has decided not to implement those new cutpoints. EPA must take cognizance of the reality of the Pennsylvania I/M program and can not simply ignore the cutpoint issue. It is not adequate for EPA to approve the ROP plan on the basis of Pennsylvania's paper submission and refuse to recognize what is happening in the real world.

The Council also objects to EPA's proposal to grant "limited approval" to Pennsylvania's Post-96 ROP plan given the fact that most Reasonable Available Control Technology (RACT) proposals included in the ROP plan have not yet been reviewed and approved by EPA. Pennsylvania chose to implement RACT on a case-by-case basis. Pennsylvania was fully aware that case-by-case RACT involves an extremely slow approval process. Having chosen such a slow RACT process, Pennsylvania can not now be granted presumed approval because the EPA approval process is slow. It is unfortunate that the RACTs were not submitted in a manner (timeliness, completeness, and adequacy) that allowed EPA to review and approve them quickly, but EPA can not make up for that by crediting Pennsylvania's ROP with unapproved RACTs.

The Council is also concerned about the amount of credit that EPA is willing to grant Pennsylvania for Stage II. The Council appreciates that Mobile 5B assumes for Stage II 95% Rule Penetration and 80% Rule Effectiveness. This results in a 76% rate of efficiency. The Council firmly believes that the aging Stage II equipment in the Philadelphia area is performing far below expectations. The Council believes that EPA needs to determine the actual present efficiency of Stage II and allow only that level to be included in the ROP plan.

Finally, the Council is extremely concerned with the Post-96 ROP plan's lack of contingency measures to account for any shortfalls in the amount of emission reductions. The Council believes such contingency plans are required under the Clean Air Act. Furthermore, given the deficiencies in the emission reduction strategies discussed above, it would wise to have in place a set of contingency measures to ensure that the appropriate amount of reductions are achieved. It is especially important in light of the fact that the emission reductions called for under the Post-96 ROP plan are to be achieved by the end of this calendar year.

Responses to these comments may be directed to: Jason A. Rash, Staff Attorney, Clean Air Council, 135 S. 19<sup>th</sup> Street, Suite 300, Philadelphia, PA. 19103; or call (215) 567-4004 x221.

Respectfully Submitted,

Joseph O. Minott, Esq  
Executive Director  
Clean Air Council